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April 6, 2010

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

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Agenda No. 3
11/24/09

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

#14 APRIL 6, 2010

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

**Re: PROJECT NUMBER R2006-03795-(2)
CONDITIONAL USE PERMIT NUMBER 2006-00329-(2)
SECOND SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted an appeal hearing regarding the above-referenced permit, which proposes the construction and maintenance of a two-family residence, located at 21603 Berendo Avenue in the unincorporated community of West Carson. At the completion of the hearing, your Board indicated an intent to approve the permit with several additional conditions, and instructed us to prepare findings and conditions for approval. Enclosed are findings and conditions for your consideration.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By

Lawrence L. Hafetz
Lawrence L. Hafetz
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

John F. Krattli
JOHN F. KRATTLI
Senior Assistant County Counsel

LLH:sh
Enclosure

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. R2006-03795-(2)
CONDITIONAL USE PERMIT CASE NO. 2006-00329-(2)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Conditional Use Permit No. 2006-00329-(2) ("CUP") on November 24, 2009. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP on April 1, 2009 and on May 20, 2009.
2. The permittee, Ms. Salud F. Rivera, requests the CUP to authorize the construction and maintenance of a two-family residence, located at 21603 Berendo Avenue in the unincorporated community of West Carson, in the Carson Zoned District.
3. The site is zoned C-3 (Unlimited Commercial). Two-family residences are allowed in the C-3 zone with a conditional use permit.
4. The subject property is approximately 4,800 square feet and is relatively level. The area is relatively urbanized and surrounded by commercial or residential uses in all directions.
5. Surrounding properties are zoned as follows:

North: R-1 (Single-Family Residence);
South: C-3;
East: R-1; C-3; and
West: R-1.
6. The surrounding land uses consist of the following:

North: Single-family residences;
South: Apartment buildings, commercial service uses;
East: Single-family residences, multi-family residences; and
West: Single-family residences.
7. The site contains an existing single-family residence, carport, garage, and an unpermitted second unit. As part of the project, a portion of the existing residence will be demolished and the remaining portion will be incorporated into the new two-family residence. Also as part of the project, the existing carport, garage, and second unit will be demolished.
8. Access to the site is from the east via Berendo Avenue.

9. The permittee originally proposed a large, three-story project for the site described in Finding No. 10 below, which was substantially revised through the public hearing process, as described in these Findings.
10. The permittee originally proposed the development of a two-family residence, with one unit having a floor area of 1,250 square feet, consisting mainly of the existing single-family residence, and the second unit having a floor area of 3,500 square feet. The project also included a 2,600-square-foot uninhabited loft area constructed above and beside the first unit, creating a three-story unit with a staircase and elevator for access. The loft was proposed to be used exclusively for storage and the height of the structure was proposed to be 35 feet. The proposed rear-yard setback was to be five feet along most portions of the rear property line, with certain portions having a one-foot, six-inch rear-yard setback. The project contained a total of 10 bathrooms and four on-site covered parking spaces.
11. Prior to the Commission's initial public hearing session, staff of the County Department of Regional Planning ("Regional Planning") reviewed the project under the California Environmental Quality Act ("CEQA") and determined that the project qualified for a Class 3 Categorical Exemption (Small Structures) under CEQA ("Categorical Exemption"). Staff later determined that the Categorical Exemption continued to apply to the project after it was revised through the public hearing process.
12. Throughout the public hearing process, Regional Planning staff received numerous telephone calls, extensive correspondence, and a petition with approximately 260 signatures, all in opposition to the project originally proposed by the permittee. Regional Planning staff also received a petition with approximately 75 signatures in favor of the project.
13. Opponents of the project raised concerns regarding the structure's 35-foot height, claiming that such a height was out-of-character with the surrounding area. Several adjacent neighbors asserted that the structure's proposed windows faced their respective yards and would invade their privacy. Opponents also raised concerns regarding the structure's multi-family use, claiming that such a use would attract a more transient population to the neighborhood.
14. On January 20, 2009, a Regional Planning hearing officer ("Hearing Officer") held a public hearing on the project. At the public hearing, the permittee and her representative testified in favor of the project. Two area residents testified in opposition to the project claiming, among other things, that it was out-of-character with the surrounding neighborhood. At the conclusion of the public testimony, the Hearing Officer closed the public hearing and denied the project on a number of grounds, including that: (a) the proposed multi-family residence was not of like character to the surrounding residential uses; (b) the structure's proposed height, density, and use would likely adversely affect the health, peace,

comfort, and/or welfare of persons residing or working in the surrounding area; and (c) by blocking light, eliminating views, and inhibiting privacy, the project would likely be detrimental to the use, enjoyment, and valuation of residential properties in the immediate vicinity.

15. Pursuant to section 22.60.200(A) of the Los Angeles County Code ("County Code"), the permittee appealed the Hearing Officer's denial to the Commission.
16. On April 1, 2009, the Commission held its initial public hearing session on the project. At the public hearing, the Commission heard a presentation from Regional Planning staff, testimony from the permittee and her representative, and testimony from persons in favor of, and in opposition to the project.
17. At that public hearing session, opponents raised a number of claims regarding the project, similar to those raised in written correspondence and before the Hearing Officer, including claims that the structure was out-of-character with the surrounding area. Opponents also claimed that, with numerous bedrooms and bathrooms, the structure could easily be converted to an unpermitted residential and/or commercial use. According to these opponents, such an unpermitted use could increase crime, traffic, and transients to the area.
18. After discussion by the Commission, the Commission continued the public hearing to May 20, 2009, directing the permittee to revise the project by:
(a) redesigning the structure to have a minimum five-foot rear-yard setback along its entire rear property line; (b) revising the project plans to show the third story as habitable; (c) reducing the height of the third story by at least three feet; and (d) redesigning the third-story windows to maximize the privacy of the neighbors to the rear.
19. On May 20, 2009, the Commission held its continued public hearing on the project. At the continued public hearing, the Commission heard a presentation from Regional Planning staff, testimony from the permittee and her representative, and testimony from one opponent regarding the project.
20. At the continued public hearing, staff informed the Commission that the permittee had redesigned the project to substantially conform to the Commission's directive at the prior public hearing session by, among other things, reducing the third-story height by four feet and thereby reducing the structure's overall height to 31 feet. Moreover, the permittee had volunteered to reduce the number of bathrooms from 10 to seven, and had agreed to provide additional rear landscaping to mitigate the rear neighbors' concerns regarding aesthetics.
21. At the continued public hearing, the opponent testified that, among other things, notwithstanding the changes to the project, it was still out-of-character with the area and that the permittee could use the structure for unpermitted uses.

22. On May 20, 2009, after hearing all testimony, the Commission closed the public hearing and approved the CUP for the project, subject to the conditions recommended by Regional Planning staff.
23. Pursuant to section 22.60.200(A) of the County Code, one project opponent appealed the Commission's decision to the Board.
24. The Board conducted its public hearing on the appeal on November 24, 2009. At the public hearing, the Board heard a presentation from Regional Planning staff, testimony from the permittee and her representative, and testimony from one opponent.
25. At the Board's public hearing, Regional Planning staff informed the Board that since the filing of the Board appeal, the permittee had agreed to make several additional changes to the project to further mitigate the concerns of the neighbors. These additional changes included limiting the structure's height to two stories, with a maximum of 25 feet, and removing the unpermitted structures and storage on the site within 90 days of the CUP's final approval date.
26. At the Board's public hearing, the opponent/appellant testified that, because the structure would be reduced to two stories, he had no further objection to the project.
27. At the conclusion of the Board's public hearing, the Board adopted the Categorical Exemption for the project, and indicated its intent to deny the appeal and approve the CUP, subject to the Commission-approved conditions, and the following additional conditions: (a) that the structure be limited to two stories with a maximum height of 25 feet; (b) that the second story windows be designed to maximize the privacy of the rear neighbors; and (c) that within 90 days of approval of the CUP, the permittee be required to demolish all unpermitted structures on the site. The Board also directed Regional Planning to immediately begin enforcement proceedings if staff ever obtained information or had any indication that the approved structure was being used for an unauthorized use.
28. In requiring a reduction in the height of the structure, the Board finds that the height, density, size, and character of the structure approved by the Commission would still be incompatible with the character of the surrounding community and would still have negative impacts on the neighbors.
29. The Board finds that while the property is zoned C-3, it is nonetheless adjacent to single-family residences and an apartment building. With few exceptions, the greater residential area is characterized by one- and two-story buildings ranging from 11 to 25 feet in height. The Board further finds that the 31-foot-high structure approved by the Commission would create a significant adverse impact to the residential properties in the immediate vicinity by blocking their light, eliminating their views, compromising their privacy, and potentially reducing their property values.

30. The Board finds that when the project originally was reviewed by Regional Planning staff, staff identified an unpermitted structure on the site that, as of the date of the Board's public hearing, still had not been demolished.
31. The Board finds that the changes to the project and the requirement regarding immediate enforcement proceedings, both described in Finding No. 27, will address the project's compatibility issues described in Finding Nos. 28-30.
32. The Board finds that the project will meet all applicable development standards for the zone and the standards for the "C" (Commercial) land use designation in the Countywide General Plan.
33. The Board finds that the privacy concerns of area neighbors will be mitigated by the requirement that the second story windows be designed to maximize the privacy of these neighbors and by the permittee's agreement to plant additional landscaping in the rear of the structure.
34. The Board finds that the project will contain four covered parking spaces, thereby complying with the County Code parking requirement for the site.
35. The Board finds that the subject property will be more appropriately used for a residential rather than a commercial use since it is essentially surrounded by residential uses, including two apartment buildings.
36. The Board finds that the basis for the Hearing Officer's denial no longer exists because, through the public hearing process, the project has been sufficiently revised to address the Hearing Officer's concerns.
37. The Board finds that the project as conditioned will be compatible with the surrounding area and will not pose adverse impacts nor overburden existing public services and facilities.
38. The Board finds that the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as otherwise required in order to integrate said uses with the uses in the surrounding area.
39. The Board finds that the project as conditioned will not disrupt or adversely impact local traffic conditions and the site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.
40. The Board finds that with the conditions of approval, the project is compatible with surrounding uses in terms of scale, intensity, and design. The requested use at the subject property will not adversely affect the health, peace, comfort, or

welfare of persons residing or working in the surrounding area; will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

41. The Board finds that the project was reviewed under CEQA, the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines for the County. Based on that review, the Board found that the Categorical Exemption was appropriate for the project and thus adopted the Categorical Exemption at the conclusion of the public hearing on the project.
42. The Board finds that the permittee has demonstrated the suitability of the subject property for the proposed use. The Board further finds that establishment of the proposed use at such location is in conformity with good zoning practice, and that compliance with the conditions of approval will ensure the project's compatibility with all applicable General Plan policies.
43. Approval of the project is conditioned on the permittee's compliance with the attached conditions of approval.
44. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

- A. That the proposed use with the attached conditions and restrictions will be consistent with the adopted General Plan;
- B. That with the attached conditions and restrictions, the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, and general welfare;
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and adequately served by other public or private service facilities as are required.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Certifies that it adopted the Categorical Exemption at the conclusion of its public hearing on the project; and
2. Approves Conditional Use Permit No. 2006-00329-(2) subject to the attached conditions.

**CONDITIONS OF APPROVAL
PROJECT NO. R2006-03795-(2)
CONDITIONAL USE PERMIT NO. 2006-00329-(2)**

1. This grant authorizes the use of the subject property for the construction and maintenance of a two-family residence located at 21603 Berendo Avenue in the unincorporated community of West Carson, as depicted on the approved Exhibit "A," subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose unless and until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions have been recorded as required by Condition No. 4, and until all monies have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this Condition No. 3, and Condition Nos. 5, 6, and 7 shall be effective immediately.
4. Prior to the use of this grant, the terms and conditions of the grant shall be recorded in the office of the County Registrar-Recorder/County Clerk. In addition, upon any transfer or lease of the subject property during the term of this grant, the permittee shall promptly provide a copy of the grant and its terms and conditions to the transferee or lessee, as applicable, of the subject property. Upon recordation, an official copy of the recorded conditions shall be provided to the Director of Regional Planning ("Director").
5. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of section 65009 of the California Government Code or any other applicable limitation period. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense. If the County fails to notify the permittee of any claim, action, or proceeding, or if the County fails to reasonably cooperate in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
6. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing, pay Regional Planning an initial deposit of \$5,000 from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in Regional Planning's cooperation in the defense, including but not limited to,

depositions, testimony, and other assistance to the permittee or the permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:

- a. If during the litigation process actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and
- b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents shall be paid by the permittee in accordance with section 22.170.010 of the Los Angeles County Code ("County Code").

7. This grant shall expire unless used within two years from the date of approval. Pursuant to section 22.56.140 of the County Code, the permittee may request a one-year time extension to use this grant, provided such request is made in writing and accompanied with the applicable fee at least six months prior to the expiration date described herein.
8. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
9. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County the sum of \$300 to be placed in a performance fund to be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval and with the permittee's adherence to the site plan on file at Regional Planning. The fund provides for two biennial inspections, which inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant or to ensure adherence with the approved site plan, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible for and shall reimburse Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. The charge for additional inspections shall be the amount equal to the recovery cost at the time of payment. The current recovery cost is \$150 per inspection.

10. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the County Regional Planning Commission or a County hearing officer may, after conducting a public hearing, revoke or modify this grant if it is found that these conditions have been violated, or that this grant has been exercised so as to be detrimental to the public health, safety, or so as to be a nuisance. In the event that the County deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the permittee shall compensate the County for all costs incurred in such proceedings.
11. All development shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, or by the approved Exhibit "A" or a revised Exhibit "A" approved by the Director.
12. All structures related to the permittee's use shall comply with the requirements of the County Department of Public Works, Division of Building and Safety.
13. Except for seasonal decorations or signage provided by or for a civic or non-profit organization, all structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage that do not directly relate to the use of the property or provide pertinent information about the premises. In the event any such extraneous markings become visible, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of their visibility, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
14. The permittee shall provide a minimum of four on-site covered parking spaces subject to the specifications set forth in section 22.52.1060 of the County Code.
15. The permittee shall keep and maintain the premises in a neat and orderly fashion and shall keep the areas over which the permittee has control free of litter at all times.
16. Outdoor storage and display are prohibited at the site unless approved by the Director through a revised Exhibit "A."
17. As volunteered by the permittee, the permittee shall ensure that the structure contains no more than a total of seven bathrooms.
18. Within 60 days following the approval of this grant, the permittee shall submit to the Director for review and approval three copies of revised plans similar to the Exhibit "A" presented at the Board's public hearing that depict all project changes required by this grant of approval. In the event the permittee seeks to revise these plans in the future, the permittee shall submit three copies of such revised plans to the Director for approval, with written authorization from the property owner for such revised plans.

19. Within 60 days of the approval date of this grant, the permittee shall submit to the Director for review and approval three copies of a revised landscape plan, which may be incorporated into the revised Exhibit "A" described above, showing the size, type, and location of all plants, trees, and watering facilities to be installed at the site. The landscape plan shall comply with the drought-tolerant landscaping requirements of section 22.52.2230 of the County Code, including the requirement that a minimum of 75 percent of the site's total landscaped area shall contain plants from Regional Planning's drought-tolerant plant list. In addition, the permittee shall plant and maintain a minimum of three trees in the site's rear-yard setback, which trees shall also be identified on said list. The permittee shall maintain all landscaping in a neat, clean, and healthy condition, and shall properly prune, weed, remove litter, fertilize, and replace plants when necessary. Landscape watering facilities, if any, shall consist of a permanent water-efficient irrigation system, such as "bubbler" or drip irrigation, to irrigate all landscaped areas, except for turf or other ground cover.
20. The structure shall be limited to two stories and shall have a maximum height of 25 feet.
21. The structure shall have a minimum rear-yard setback of five feet along the entire length of the subject property.
22. The permittee shall design the structure's second-story windows to maximize the privacy of the neighbors in the rear.
23. The permittee shall provide rear landscaping to the site to maximize its aesthetic appeal to the neighbors in the rear.
24. Within 90 days of the approval date of this grant, the permittee shall demolish any and all unpermitted structures on the site.
25. The subject property shall be developed and maintained in substantial compliance with the approved Exhibit "A" or a revised Exhibit "A" approved by the Director. If Regional Planning ever obtains information or has any indication whatsoever that the subject property is being used for an unauthorized use, the permittee shall be subject to immediate enforcement proceedings to terminate such unauthorized use and/or to revoke this grant.